

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION**

UNITED STATES OF AMERICA )  
                                )  
                                )  
v.                             )                           **3:93-CR-003-D(02)**  
                                )  
                                )  
**KERRY DEWAYNE LAURY,**         )  
    Defendant/Movant.         )

**ORDER**

After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct, except that the court declines to adopt the alternative recommendation that defendant's motion to issue a writ of *audita querela* be construed as a motion under 28 U.S.C. § 2255. It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted to the extent that defendant's motion for writ of *audita querela*, and his June 13, 2008 motion to enforce oral and written stipulations, are denied.

Accordingly, defendant's June 13, 2008 motion to issue a writ of *audita querela*, his June 13, 2008 motion to enforce oral and written stipulations, and his July 21, 2008 motion to appoint counsel are denied.

**SO ORDERED.**

July 30, 2008.

  
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SIDNEY A. FITZWATER  
CHIEF JUDGE